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Honorable Mike K. Nakagawa  
United States Bankruptcy Judge



Entered on Docket  
September 06, 2013

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12 *Proposed Attorneys for Debtor*

13 **UNITED STATES BANKRUPTCY COURT**

14 **DISTRICT OF NEVADA**

15 In re:  
16 XTREME GREEN PRODUCTS, INC.,

17 Debtor.

18 Case No.: BK-S-13-17266-MKN  
19 Chapter 11

20 **INTERIM ORDER AUTHORIZING  
21 POST-PETITION FINANCING AS A  
22 SUPER PRIORITY ADMINISTRATIVE  
23 EXPENSE AND AS A SECURED LOAN  
24 PURSUANT TO 11 U.S.C. § 364(c)**

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26 Interim Hearing  
27 Date: August 29, 2013  
28 Time: 9:30 a.m.

29 Final Hearing  
30 Date: September 25, 2013  
31 Time: 9:30 a.m.

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33 Motion for Interim Order and Final Order Authorizing Post-Petition Financing as an  
34 Administrative Expense Pursuant to 11 U.S.C. § 364 (the “*Motion*”) brought herein by XTREME  
35 GREEN PRODUCTS, INC. (the “*Debtor*”). The Court held a preliminary hearing on the Motion

1 as required by section 364(c) of the Bankruptcy Code (“*Code*”)<sup>1</sup> and Rule 4001(b) of the Federal  
 2 Rules of Bankruptcy Procedure (“*Rules*”). The Court has considered the Motion, any pleadings  
 3 filed and evidence submitted in connection therewith, and the statements of counsel, and enters the  
 4 following findings of fact and conclusions of law (to the extent any findings of fact constitute  
 5 conclusions of law, they are adopted as such, and *vice versa*).

6                   **THE COURT HEREBY FINDS AND DETERMINES:**

7                   A.       On August 22, 2013 (“*Petition Date*”), the Debtor filed a Voluntary Petition  
 8 initiating this chapter 11 case. The Debtor continues in possession of its assets and management  
 9 of its affairs pursuant to sections 1107 and 1008 of the Code. No trustee, examiner, or committee  
 10 of creditors has been appointed in this case.

11                  B.       This Court has jurisdiction over the Motion pursuant to 28 U.S.C. §§ 157 and 1334.  
 12 This is a core proceeding pursuant to 28 U.S.C. §157(b). Venue is proper in this District pursuant  
 13 to 28 U.S.C. §§ 1408 and 1409(a).

14                  C.       The Debtor is in a position to operate its business if it gets sufficient financing.

15                  D.       The Debtor and The Georgiou Family Trust dated 6/22/09 and/or its affiliates  
 16 (the “Lender”) have reached an agreement under which the Lender will provide up to \$2,000,000  
 17 debtor-in-possession financing (the “DIP Loan”) in order to fund the Debtor’s reorganization  
 18 under chapter 11 of the Bankruptcy Code. A draft of the Agreement is attached to the Motion (the  
 19 “Agreement”).

20                  E.       The Debtor and the Lender have reached an agreement under which the Lender will  
 21 provide \$650,000 in interim debtor-in-possession financing (the “Interim DIP Loan”) in order to  
 22 fund the continued operation of the Borrower’s business until the DIP Loan is approved.

23                  F.       Lender’s willingness to enter into the Agreement is conditioned on the interim  
 24 debtor-in-possession loan (“DIP Loan”) being treated as a super-priority administrative expense

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 27                  <sup>1</sup> All references to the Bankruptcy Code herein are to title 11 of the United States Code, 11 U.S.C.  
 28                  § 101 *et seq.*

1 under section 364(c)(1) of the Bankruptcy Code and first priority secured loan under section  
 2 364(c)(2) and (3) of the Bankruptcy Code.

3       G.     The Debtor has shown by adequate evidence:

4           1.     The Interim DIP Loan is necessary to pay the actual, necessary costs and  
 5 expenses of preserving the estate.

6           2.     The terms of the Interim DIP Loan are reasonable.

7           3.     The Lender is extending credit to the Borrower in good faith within the  
 8 meaning of section 364(e) of the Bankruptcy Code.

9           4.     Adequate notice of the Motion and the hearing was given to creditors,  
 10 shareholders, the Office of the United States Trustee and parties in interest.

11           5.     Unsecured and non-priority loans were not available.

12           Based on the Findings of Fact and Conclusions of Law set forth above, it is hereby  
 13 ORDERED:

14           1.     Disposition. The Motion is hereby granted on an interim basis to the extent and  
 15 subject to the terms set forth herein with the foregoing findings incorporated herein by reference,  
 16 and Debtor and the Lender consent and stipulate thereto. Any objections to the Motion that have  
 17 not previously been withdrawn or resolved are hereby overruled. This Interim Order shall be  
 18 valid, binding on all parties-in-interest and fully effective immediately upon entry, and the Clerk  
 19 of the Court is hereby directed to enter this Interim Order on the Court's docket for this Chapter  
 20 11 Case.

21           2.     Agreement. The Agreement attached to the Motion is approved and all of its terms  
 22 are enforceable by the Lender with regard to the Interim DIP Loan.

23           3.     Use of Funds. The Debtor is hereby authorized to use funds provided by the  
 24 Lender in accordance with, and subject to, the terms of this Interim Order and the budgets  
 25 attached to the Motion, which is incorporated herein (the "*Budgets*"), or as provided in the Motion  
 26 or the Agreement. Notwithstanding any relief granted in any other order entered by the Court, but  
 27 subject to the terms and conditions of this Interim Order, Debtor shall not make any expenditures  
 28 authorized by such orders unless, and to the extent that, such expenditures are encompassed and

1 expressly included in the Interim Order and the Budget. The Agreement is hereby ratified and  
 2 affirmed, and incorporated herein by this reference, and Debtor shall perform all of its obligations  
 3 thereunder. The Debtor is authorized to repay the pre-petition secured loan from BTG EGZ  
 4 Investment LLC, a Nevada limited liability company, in the principal amount of \$150,000,  
 5 plus interest and attorneys' fees. The Debtor is authorized to pay pre-petition "critical vendors" as  
 6 identified by the Debtor in its Motion to Pay Critical Vendors.

7       4.     Successors. This Interim Order shall be binding upon all other parties-in-interest,  
 8 including, without limitation, Debtor (and its respective successors and assigns, including, without  
 9 limitation, any subsequently appointed trustee), and shall inure to the benefit of the Lender and  
 10 Debtor and their respective successors and assigns (including, without limitation, any trustee,  
 11 estate administrator, responsible person or representatives or other fiduciary or similar person  
 12 hereafter appointed as a legal representative of Debtor, or with respect to the property of Debtor's  
 13 estate), any committee of unsecured creditors appointed in this case, Debtor's creditors, and any  
 14 other statutory committees appointed in this case.

15       5.     No Deemed Control. By consenting to this Interim Order, the Lender shall not be  
 16 deemed to be in control of Debtor or its operations or to be acting as a "responsible person,"  
 17 "managing agent," "owner or operator", affiliate or insider with respect to the operation or  
 18 management of Debtor or its assets.

19       6.     Subsequent Reversal or Modifications. In the event any or all of the provisions of  
 20 this Interim Order are hereafter modified, amended, or vacated by a subsequent order of this or  
 21 any other Court, no such modification, amendment, or vacatur shall affect the validity and  
 22 enforceability of any lien or priority authorized or created hereby. Notwithstanding any such  
 23 modification, amendment, or vacatur, any claim or lien granted to the Lender hereunder arising  
 24 prior to the effective date of such modification, amendment, or vacatur shall be governed in all  
 25 respects by the original provisions of this Interim Order, and the Lender shall be entitled to all of  
 26 the rights, remedies, privileges, and benefits, including the liens and priorities granted herein, with  
 27 respect to any such claim.

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1           7.     Adequate Notice; Notice of Final Hearing. The notice given by Debtor of the  
 2 Interim Hearing was given in accordance with Rules 2002 and 4001 and the local rules of the  
 3 Court. Under the circumstances, no further notice of the request for relief granted at the Interim  
 4 Hearing is required. Promptly after the entry of this Interim Order, Debtors shall serve, by first  
 5 class mail or electronic mail, a copy of this Interim Order and a notice of the Final Hearing (the  
 6 “*Final Hearing Notice*”), to all parties entitled to notice thereof under the Rules and the local rules  
 7 of the Court and shall file a certificate of service regarding same with the Clerk of the Court. Such  
 8 evidence shall constitute good and sufficient notice of the Final Hearing.

9           8.     Final Hearing. The hearing to consider entry of a final order with respect to the  
 10 Motion shall take place on September 25, 2013 at 9:30 a.m. (prevailing Pacific time) (the “*Final*  
 11 *Hearing*”).

12           9.     Objection Deadline. The Final Hearing Notice shall state that any party-in-interest  
 13 objecting to the relief sought at the Final Hearing shall be made in writing setting forth with  
 14 particularity all facts relied upon and all grounds therefor, and shall be filed with the Court on  
 15 September 13, 2013 by 5:00 p.m. (Pacific time) (the “*Objection Deadline*”), and concurrently  
 16 served so as to be *actually received* by the Objection Deadline by counsel for the Debtor and  
 17 counsel for the Lender

18           10.    Binding Effect. The terms of this Interim Order shall be binding on any trustee  
 19 appointed under chapter 7 or chapter 11 of the Bankruptcy Code.

20           Prepared by:

Approved by:

22           \_\_\_\_\_  
 23           /s/ Lenard E. Schwartzer  
 24           Lenard E. Schwartzer  
 25           Jeanette E. McPherson  
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22           \_\_\_\_\_  
 23           /s/ Candace C. Carlyon  
 24           Candace C. Carlyon  
 25           Carlyon & Smith, PLLC  
 26           701 Bridger, Suite 850  
 27           Las Vegas, NV 89101  
 28           Attorney for Lender

1 In accordance with LR 9021, counsel submitting this document certifies that the order accurately  
2 reflects the court's ruling and that (check one):

3  The court has waived the requirement set forth in LR 9021 (b)(1).

4  No party appeared at the hearing or filed an objection to the motion.

5  I have delivered a copy of this proposed order to all counsel who appeared at the hearing,  
6 and any unrepresented parties who appeared at the hearing, and each has approved or  
disapproved the order, or failed to respond, as indicated above.

7  I certify that this is a case under Chapter 7 or 13, that I have served a copy of this order  
8 with the motion pursuant to LR 9014(g), and that no party has objected to the form or  
content of the order.

9 /s/ Lenard E. Schwartzer

10 Lenard E. Schwartzer, Esq.

11 Schwartz & McPherson Law Firm

12 *Attorneys for Debtor*

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